

cost of doing business, competition, and other variables.

(iv) NRCS will review payment rates annually, or more frequently as needed, and adjust the rates based upon data from existing contracts, Federal cost rates, and other appropriate sources.

(v) NRCS may adjust payment rates, as needed, on a case-by-case basis, in response to unusual conditions or unforeseen circumstances in delivering technical services such as highly complex technical situations, emergency conditions, serious threats to human health or the environment, or major resource limitations. In these cases, NRCS will set a case-specific not-to-exceed payment rate based on the Department's determination of the scope, magnitude, and timeliness of the technical services needed.

(3) Cost share credits. In order to encourage competitive pricing, a program participant may earn credits toward their cost-share for practice installation under a program contract when a participant selects a technical service provider with prices below the not-to-exceed rates for the provision of technical services. The credits earned will be equal to a percentage of the savings generated by the participant by choosing a lower cost technical service provider. However, in no cases may the application of cost share credits to a program contract result in the Department exceeding any statutory limitations on cost sharing or payments for a particular program.

[67 FR 70128, Nov. 21, 2002, as amended at 68 FR 14133, Mar. 24, 2003]

§ 652.6 Department delivery of technical services.

(a) The Department may procure the services of certified technical service providers through a contract or a contribution agreement to assist the Department in providing technical services necessary to develop and implement the conservation programs subject to this part. The Department shall only enter into a contribution agreement with a certified technical service provider if the certified technical service provider contributes at least 50 percent of the technical services needed to accomplish the goals of the project

under which the contribution agreement is entered. The Chief may establish minimum contribution rates or limit the utilization of contribution agreements.

(b) The Department may also enter into a cooperative agreement after competition as specified by part 3015 of this title if the principal purpose of the cooperative agreement is to transfer a thing of value to carry out a public purpose of support or stimulation authorized by law. The Chief or the Administrator, Farm Service Agency (FSA) may limit the utilization of cooperative agreements by NRCS or FSA, respectively. Only the Chief, NRCS or the Administrator, FSA may make a determination that competition is not deemed appropriate for a particular transaction and such determination shall only be based where a non-competitive award is in the best interest of the Government and necessary to the accomplishment of the goals of the program.

(c) A certified technical service provider, or an individual providing technical services under the auspices of a technical service provider's certification, shall not be eligible to receive payment under a program contract or agreement for technical services provided directly to a program participant if that technical service provider has entered into a contract, cooperative agreement, or contribution agreement with NRCS to provide technical services to that program participant.

(d) The Department will, to the extent practicable, ensure that the amounts paid for technical service under this part are consistent across conservation program areas, unless specific conservation program requirements include additional tasks.

§ 652.7 Quality assurance.

(a) NRCS will review, in consultation with the Farm Service Agency, as appropriate, the quality of the technical services provided by technical service providers. As a requirement of certification, technical service providers will be required to develop and maintain documentation in accordance with Departmental manuals, handbooks, and technical guidance for the technical